



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Amendment of PERS Contract to Provide Two Years Additional Service Credit (Repeal and Re-Adopt Ordinance)

MEETING DATE: June 23, 1993 (Adjourned City Council Meeting)

PREPARED BY: City Attorney

RECOMMENDED ACTION: Repeal Ordinance 1576, authorizing amendment to the contract between the City of Lodi and the Board of Administration of the California Public Employees Retirement System, and introduce an amended ordinance.

BACKGROUND: At the meeting of May 19, 1993, the City Council adopted Resolution 93-65, a Resolution of Intention to approve an amendment to the contract between the City and the Public Employees Retirement System (PERS). This addressed what has become known as the "golden handshake" whereby two additional years of service credit could be given for City employees approaching retirement. The reason for this action would be to encourage those employees nearing retirement age, who are currently being paid at top step, to retire early. The replacements would be paid commensurately less, amounting to a cost saving for the City.

Both the Resolution of Intention and the first reading of the ordinance occurred at the May 19, 1993 Council meeting. The ordinance's second reading occurred at the June 2 meeting. Unfortunately, PERS has advised that it does not believe this complies with statutory time guidelines. On June 21, 1993, I spoke with PERS representative Cynthia Wiegman who advised that she was of the opinion that Government Code Section 20460 required that the ordinance amending the contract between PERS and the City be adopted "not less than 20 days after the adoption of the Resolution of Intention". In Lodi's case, the time lapse between introduction and final adoption was only 14 days.

I am not convinced that the 20-day time limit specified in Government Code Section 20460 is applicable, since this statute specifically addresses an ordinance "approving" the contract and not an amendment. "Amendments" are addressed in the following section, and although the wording is somewhat ambiguous, it implies that amendments can be made without the 20-day waiting period. In any event, it is easier to comply with PERS' interpretation than to dispute this with them since there are already employees who have begun making arrangements and commitments to take the early retirement.

In order to avoid disruption of employees' retirement plans, it is requested that the Council introduce the ordinance at the adjourned meeting of June 23.

APPROVED _____

THOMAS A. PETERSON
City Manager



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1993, with final adoption occurring at the next regular meeting on July 7, 1993. Under Government Code Section 36937(e) and Government Code Section 20460, the ordinance would take effect immediately following its final adoption. That would move back the "window of opportunity" by 2 days, since we originally estimated that employees taking advantage of this provision could retire as early as July 6, 1993. It would also be necessary that the end of the period be commensurately extended by 2 days.

FUNDING: General Fund Operating Reserves

Respectfully submitted,



Bob McNatt
City Attorney

BM/vc

PERSRET/TXTA.01V

ORDINANCE NO. 1582

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
REPEALING ORDINANCE NO. 1576 AND REENACTING AN AMENDMENT TO THE CONTRACT
BETWEEN THE CITY COUNCIL OF THE CITY OF LODI AND THE BOARD OF
ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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THE CITY COUNCIL OF THE CITY OF LODI DOES ORDAIN AS FOLLOWS:

SECTION 1. That Ordinance 1576 is repealed in its entirety.

SECTION 2. That this ordinance authorizes an amendment to the contract between the City Council of the City of Lodi and the Board of Administration, California Public Employees' Retirement System, a copy of said amendment being attached hereto, marked Exhibit A, and by such reference made a part hereof as though herein set out in full.

SECTION 3. The Mayor of the City of Lodi is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

SECTION 4. This ordinance shall take effect immediately upon its final adoption, pursuant to Government Code Sections 36937(e) and Government Code Section 20460, providing that such ordinance shall become effective "not less than 20 days after the adoption of the Resolution of Intention". Said Resolution of Intention was adopted May 19, 1993. This ordinance shall be published at least once in the Lodi News Sentinel, a newspaper of general circulation published and circulated in the City of Lodi and shall thenceforth and thereafter be in full force and effect.

Approved this day of

PHILLIP A. PENNINO
Mayor

Attest:

JENNIFER M. PERRIN
City Clerk

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State of California
County of San Joaquin, ss.

I, Jennifer M. Perrin, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1582 was introduced at an adjourned regular meeting of the City Council of the City of Lodi held June 23, 1993 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 1993 by the following vote:

Ayes:	Council Members -
Noes:	Council Members -
Absent:	Council Members -
Abstain:	Council Members -

I further certify that Ordinance No. 1582 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

JENNIFER M. PERRIN
City Clerk

Approved as to Form

BOBBY W. McNATT
City Attorney

**AMENDMENT TO CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
OF THE
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
CITY COUNCIL
OF THE
CITY OF LODI**

EXHIBIT A

The Board of Administration, Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of above public agency, hereinafter referred to as Public Agency, having entered into a contract effective June 1, 1966, and witnessed April 27, 1966, and as amended effective July 6, 1966, May 1, 1970, July 1, 1973, July 1, 1977 and April 1, 1991, which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective April 1, 1991, and hereby replaced by the following paragraphs numbered 1 through 14 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 60 for local miscellaneous members and age 50 for local safety members.
 2. Public Agency shall participate in the Public Employees' Retirement System from and after June 1, 1966 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
 3. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
 4. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **PERSONS COMPENSATED ON AN HOURLY BASIS WHO
ARE HIRED JUNE 1, 1966 OR THEREAFTER; AND**
 - b. **ELECTIVE OFFICIALS.**
 5. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system, has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.

6. Benefits paid to pensioners and annuitants under the local system on the effective date of the contract were recalculated, as authorized by Section 20520 of the Government Code, to conform with benefits applicable to persons retiring after the effective date of the contract except that no benefit which would have been payable under the continuation of the local system shall be reduced.
7. The percentage of final compensation to be provided for local miscellaneous members for each year of credited prior and current service shall be determined in accordance with Section 21251.13 of said Retirement Law, subject to the reduction provided therein for service prior to June 30, 1977, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 60 Full and Modified).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21252.01 of said Retirement Law (2% at age 50 Full).
9. Public Agency elected to be subject to the following optional provisions:
 - a. Section 21361.5 (Local System Service Credit Included in Basic Death Benefit).
 - b. Section 21222.1 (Special 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
 - c. Sections 21263 and 21263.1 (Post-Retirement Survivor Allowance) for local miscellaneous members only.
 - d. Sections 21380-21387 (1959 Survivor Benefits) including Section 21382.4 (Third Level of 1959 Survivor Benefits) for local safety members.
 - e. Sections 21380-21387 (1959 Survivor Benefits) including Section 21382.2 (Increased 1959 Survivor Benefits) and Section 21382.4 (Third Level of 1959 Survivor Benefits) for local miscellaneous members.
 - f. Section 21298 (Improved Non-Industrial Disability Allowance) for local miscellaneous members only.
 - g. Section 20024.2 (One-Year Final Compensation) for local fire members only.
 - h. Section 20818 (Two Years Additional Service Credit) for local miscellaneous members and local fire members only.
10. Public Agency, in accordance with Government Code Section 20740, ceased to be an "employer" for purposes of Section 20759 effective on July 1, 1977. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20759, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20759.
11. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

12. Public Agency shall also contribute to said Retirement System as follows:

- a. Public Agency shall contribute \$2.50 per employee, per month on account of the liability for the 1959 Survivor Benefits provided under Section 21382.4 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local safety members.
- b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
- c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

13. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

14. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, 19____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
OF THE
CITY OF LODI

BY _____
CHIEF, CONTRACT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
Presiding Officer

Witness Date

Attest:

Clerk